

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ELIZABETH MASON and
CAROLYN C. TARTAGLIA,

Plaintiffs,

vs.

Case No. _____

DISH NETWORK, LLC, a foreign
corporation, and DISH NETWORK
SERVICE, LLC, a foreign corporation,

Defendants.

**NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §§ 1332 and 1441
BY DEFENDANT DOLLAR GENERAL**

COME NOW Defendants DISH Network, LLC, and DISH Network Service, LLC (collectively “Defendants”) and provides notice that they remove the state court action described below to the U.S. District Court for the District of New Mexico pursuant to 28 U.S.C. §§ 1332 and 1441. In support of their removal notice, Defendants state as follows.

1. Plaintiffs commenced this personal injury action in the Eighth Judicial District Court, County of Taos, State of New Mexico by filing their “Complaint” entitled *ELIZABETH MASON and CAROLYN C. TARTAGLIA, Plaintiffs, v. DISH NETWORK, LLC, a foreign corporation, and DISH NETWORK SERVICE, LLC, a foreign corporation, Defendants*, Cause No. D-820-CV-2015-00279 (hereafter “Complaint”) on August 29, 2015. (See Plaintiff’s state court Complaint and Summons, attached as **Exhibit A**).

2. Service of the original complaint was accepted by Defendants on February 25, 2016.

3. As stated in the Summons, Defendants were provided thirty (30) days to file a responsive pleading to the Complaint. (*See Exhibit A*, Summons).

4. Defendants' time to answer or remove with respect to the Complaint has not expired.

5. This Notice of Removal is filed in this Court within thirty (30) days of the service of the initial pleading in this case on Defendants. *See* 28 U.S.C. § 1446(b). The state court in which this action was commenced is within this Court's district. As set forth below, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

DIVERSITY JURISDICTION

6. Upon information and belief, Plaintiffs are citizens of New Mexico. (*See*, Affidavit of Counsel, attached as **Exhibit B**, ¶ 9; *see also*, **Exhibit A**, Complaint, ¶ 1 and Plaintiffs' Amended Verified Complaint, filed on March 18, 2016, ¶ 1, attached as **Exhibit C**).

7. Defendants DISH Network, LLC, and DISH Network Service, LLC, are foreign corporations incorporated in Colorado with their principal place of doing business in Colorado. (*See*, **Exhibit B**, ¶ 8; *see also*, **Exhibit A**, ¶ 1; **Exhibit C**, ¶ 1; and Colorado Corporate Registrations for DISH Network, LLC, and DISH Network Service, LLC, attached hereto as **Exhibits D** and **E**, respectively).

8. Therefore, complete diversity of citizenship exists for the purposes of this Court's original jurisdiction over the subject matter of this lawsuit.

9. Plaintiffs allege that, in the process of installing a home satellite system, Defendants caused damage to Plaintiffs' home and failed to provide adequate repairs resulting in

property damage. The alleged property damage includes damage to the home and personal property therein such as artwork, computers, cameras, books, photos and structural damage. Plaintiffs also allege loss of use of their home. (*See*, **Exhibit C** ¶¶ 11-26, 33-34, 38-39, 43-44, 52-53 & Prayer for Relief; **Exhibit B**, ¶ 5).

10. Based on representations by Plaintiffs' counsel, the damages are substantial. In addition, Plaintiffs have made a demand in excess of \$75,000. Based on this demand and the damages sought by Plaintiffs, the amount in controversy exceeds \$75,000. (*See*, **Exhibit B**, ¶ 7).

11. This Notice of Removal is filed in this Court within thirty (30) days of the service of Plaintiff's Complaint. *See* 28 U.S.C. § 1446(b)(3). The state court action was commenced less than one year from the date of this Notice of Removal. *See* 28 U.S.C. § 1446(c)(1). The state court in which this action was commenced is within this Court's district. As set forth, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

12. The above-described action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1332, 1441, in that it is a civil action between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. (*See*, **Exhibit B** ¶ 7; **Exhibits D** and **E**).

13. Defendants are concurrently filing a Notice to Adverse Parties of Removal to Federal Court, with the clerk of the Eighth Judicial District Court, County of Taos, State of New Mexico, pursuant to 28 U.S.C. § 1441(b), together with this Notice.

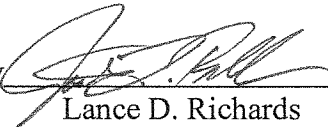
14. Pursuant to D.N.M. LR-CIV 81.1(a), Defendants will submit copies of the records and proceedings from the state court action within thirty days of its filing of this Notice of Removal.

15. Venue is appropriate in the U.S. District Court for the District of New Mexico because the alleged actions and/or omissions occurred in New Mexico.

16. The Civil Case Coversheet for this matter is attached as **Exhibit F**.

Respectfully submitted,


CIVEROLO, GRALOW, HILL & CURTIS
A Professional Association

By  _____
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CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true copy of the foregoing *Notice of Removal* to Federal Court was filed electronically through the U.S. District Court for the District of New Mexico's CM/ECF filing system on March 28, 2016, and was mailed to the following parties:

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Attorney for Plaintiff


Justin L. Robbs